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SUBCOMMITTEE ON NATURALIZATION,
COMMITTEE ON IMMIGRATION AND NATURALIZATION,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Tuesday, January 21, 1908.

The subcommittee met this day at 10.45 o'clock a. m., Hon. William S. Bennet, chairman, presiding.

Mr. BENNET. Gentlemen, if there is no objection we will have Mr. Campbell first make a general statement as to the workings of the law, and what he thinks ought to be rectified, if anything. Mr. Campbell, you may proceed.

STATEMENT OF MR. RICHARD K. CAMPBELL, CHIEF OF DIVISION OF NATURALIZATION, BUREAU OF IMMIGRATION AND NATURALIZATION, DEPARTMENT OF COMMERCE AND LABOR.

Mr. CAMPBELL. The first thing that I would like to mention, since the matter is now pending here in the form of legislation, is the bill introduced by Mr. Bennet, confirming the action of certain courts which have assumed jurisdiction in naturalization cases, so far as the question of jurisdiction is concerned, but in no other respect.

I want to say that that measure will save us a great deal of trouble and prevent the perpetration of a great deal of injustice, but it is not quite broad enough. There are certain other courts that should be specified, such as the probate courts in Ohio and the courts of quarter sessions in Pennsylvania, and perhaps the police courts in St. Louis. I do not think of any others, but it ought to be broad enough to cover those cases. As a matter of fact, a great many of these people, who have obtained certain derivative rights as well as citizenship, are in a very precarious state; and the Government would be saved a very unnecessary expense of having those certificates cancelled by waiting until such decisions of the courts are ratified by this act. That leaves us still the right under that section of the law to proceed in the courts should other meritorious grounds be raised against any such certificate.

Mr. BENNET. In other words, they would have to file new applications?

Mr. CAMPBELL. Yes, they would then have to file new applications.

Mr. HAYES. I think it is fair to state, and we should all understand, that it would be very difficult, if not impossible, to pass any legislation of this kind through the House.

Mr. BENNET. We must have a two-thirds vote in order to pass it.

Mr. BURNETT. Tell us how those courts came to assume jurisdiction, Mr. Campbell.

Mr. CAMPBELL. You remember under our statute law all clerks having common-law jurisdiction, "seal and a clerk," were entitled to exercise naturalization jurisdiction. That probate court in the State

of Ohio, which has very limited jurisdiction, mainly in the matter of probate of wills and analogous business, undertook to hold that it had a common-law jurisdiction, although it had no separate clerk, the judge acting as clerk. What the reasons or motives for the other courts assuming jurisdiction were I can not tell, except that there were emergencies when it was "desirable to make citizens," and nobody had any objection. We all ought to know that situation without going into details.

Mr. BURNETT. Before we pass the matter, unless we are going to have another hearing on that particular bill, I would like to understand a little more fully about that. You say that some of them assumed jurisdiction, you think, sort of ex necessitate rei?

Mr. CAMPBELL. Exactly.

Mr. BURNETT. What equity would there be in legalizing that any more than if a justice of the peace had assumed to do it?

Mr. CAMPBELL. So far as the naturalized individual himself is concerned, the only equity that would be worth considering is his ignorance with respect to our laws. The real advantage to be gained, it seems to me, would be to avoid, in the first place, the expense of instituting proceedings for the cancellation of such papers and, in the second place, the more serious objection, it seems to me, would be that it would bring the law into very undeserved contempt. This law is now on the statute books, and it has its enemies as well as its friends. I think we have accomplished so much good by it—and the courts have that opinion—that it would seem to be the part of prudence to make some such provision as that contained in Mr. Bennet's bill.

Mr. HAYES. What is the necessity, Mr. Campbell, for the Government to proceed to cancel the certificates?

Mr. CAMPBELL. The Government is adopting a sort of dilatory policy in that respect in regard to them all, at present, but the law provides that such cancellation shall be undertaken. The Department is of the opinion that that is one of the duties incumbent upon it which for the present may be deferred; that is, to cancel those certificates that have been fraudulently and improperly obtained.

Mr. HAYES. Improperly is different. It occurs to me that the case might be somewhat analogous to a case that happened up in Wisconsin before I began practicing law there, when I was studying law. We had an eccentric justice of the peace in one of the lumber counties of Wisconsin, and he did many eccentric things. A couple came before him one time and desired a divorce. This justice of the peace was known as Judge Bell. Those people thought that Judge Bell could do anything. He heard their case and gave them a judgment of divorce. After he had thought it over he thought that he did not have authority, so when the circuit court judge came around he stated the proposition to him. The circuit judge looked in wonderment at him, and said, "Judge Bell, you can not grant a divorce." "I can not? I have," said Judge Bell. [Laughter.] Now I do not suppose that Mr. Campbell would suggest or think it would be proper or necessary in such cases as that for the legislature of the State of Wisconsin to pass laws of that kind validating divorce.

Mr. CAMPBELL. I do not think the cases are analogous at all points, and I think there are considerations with respect to decisions that have been relied upon for years and would not apply.

Mr. BURNETT. A sort of statute of limitations?

Mr. CAMPBELL. Yes.

Mr. BURNETT. But the aliens would get credit for their residence?

Mr. CAMPBELL. Yes, and all their qualifications; and we would not proceed against them, should such a step as this be taken, unless there was an affidavit showing that there was some valid reason rendering the person ineligible to naturalization in the first instance.

Mr. HAYES. If the naturalization had been fraudulently procured?

Mr. CAMPBELL. Yes, or illegally obtained.

Mr. BENNET. The most serious thing is in the transfer of real estate. Some States have laws by which they can not take real estate or transfer it, if aliens.

Mr. HAYES. In such a case would you be allowed to attack the citizenship collaterally?

Mr. BENNET. I should think not. But if the transfer was an illegal one, you would.

Mr. BURNETT. If it was an absolute nulity, then you would. If it was merely voidable, you could not.

Mr. BENNET. In our State an alien was once absolutely forbidden to transfer land. I have no pride of opinion about it, but the other day I stated that the bill would be just as good five years from now as it is now. We can not validate real estate transfers here. All we can do is to validate citizenship.

Mr. HAYES. If the transfer was made when the man was still an alien, if it could be attacked collaterally at all, no law that we could pass would help him.

Mr. BENNET. We could correct the defect in his naturalization and validate it.

Mr. HAYES. Suppose a man had been illegally naturalized and had made a transfer, and the transfer came into question on account of the passage of this law. That could not cure that transfer?

Mr. BENNET. If we validated his original naturalization, yes.

Mr. HAYES. You think it would?

Mr. BENNET. Yes.

Mr. BURNETT. Do you think it would date back?

Mr. BENNET. I think so.

Mr. BURNETT. If those conveyances were warranted by quitclaim title, or something of that kind?

Mr. BENNET. Yes.

Mr. BURNETT. I want to ask a little further: Did that Ohio court have any common-law jurisdiction whatever?

Mr. CAMPBELL. I think it did. The question was subsequently raised here, and I think probably just before the present law was passed. It was held by one of the courts that the probate court did not comply with the law because it did not have a clerk, the judge acting as a clerk. But in the case of common-law jurisdiction, I do not know about that.

Mr. BENNET. Take the criminal courts in St. Louis or Chicago, I have forgotten which——

Mr. CAMPBELL. St. Louis.

Mr. BENNET. They had simply criminal jurisdiction, and it was said, "You can not naturalize aliens." They said, "Why not, under our common-law jurisdiction?"

Mr. BURNETT. That is the reason why I was asking. Our probate court, which is similar to that, has by statute criminal jurisdiction of all misdemeanors.

Mr. CAMPBELL. These courts have no criminal jurisdiction.

Mr. BURNETT. Where they were just in the midst of the exigency of "making citizens"—that would not address itself to us.

Mr. CAMPBELL. It was rather a scandal there in Ohio for years—the action of the probate court. Some of those courts have tried since, those very courts, to get the blank forms from us.

Mr. BURNETT. I think that would rise to the dignity of fraudulent naturalization.

Mr. BENNET. Except perhaps with respect to the applicant.

Mr. BURNETT. He might be particeps criminis if he were being naturalized.

Mr. HAYES. Is there not another consideration here, Mr. Chairman? Mr. Campbell has well said that this law is new, and that it has its enemies as well as its friends. I want to do anything that is absolutely necessary to carry on the work of the Bureau of Naturalization, and am in favor of doing that or making a hard fight to do it, at least. But anything that is not absolutely necessary I would hesitate to try to carry through Congress at this time.

Mr. CAMPBELL. I took that up simply on the ground that the bill had already been introduced and had that advantage; but I do not think it is of first importance by any means.

There are several other things now: The right of appeal is a matter of pressing importance, and I think this question of fees of the clerks is equally important. I was going to say that it was second in importance, but I think it is just as important. The courts that now exercise jurisdiction in naturalization cases, coordinate jurisdiction on questions of law, are deciding naturalization questions totally without reference to each other. Those questions are continually arising, and unless we can get some judicial clearing-house, so to speak, we can not get a uniformity of decisions.

Mr. BENNET. Give us some samples of conflicting decisions.

Mr. CAMPBELL. The most conspicuous one is that which has been rendered by courts pro and con as to the power of a minor alien under the old law to file a declaration of intention.

Some courts, particularly in the West, have decided that he labored under the common law disability. The law did not intend to give him that right until the present law provided that he might do so after reaching the age of 18 years. Other courts have decided just the opposite way.

Here is this rather interesting question as to what is meant by the exclusive terms, "white persons" "or aliens of African nativity or descent," as section 2169 describes those to whom exclusively this title of naturalization applies. Some have held that a Japanese is a white man.

Mr. BENNET. Since the new law was enacted?

Mr. CAMPBELL. Yes. Judge Swayne, who died recently, naturalized Japanese.

Mr. BURNETT. In Florida?

Mr. CAMPBELL. Yes.

Mr. HAYES. Can you not cancel that naturalization certificate by reviewing it?

Mr. CAMPBELL. We could only do so with all the chances against us, I think. We could bring it in a court of coordinate jurisdiction, affecting only that question. That is a very important point. Then there are a great many others which are continually cropping up.

Mr. BURNETT. What section is that?

Mr. HAYES. That is on page 15, section 2169. That is so plain that I do not see how the judge could err in that.

Mr. CAMPBELL. They want to do it. If we had the right of appeal, we could rectify that. I am satisfied that the judges, some of them, are a little too arbitrary; but we would not need to resort to our rights, as they would feel that the conclusion they had reached was subject to a review, and on that account they perhaps would be more careful.

Mr. BURNETT. You say Judge Swayne held that the Jap was a white man?

Mr. CAMPBELL. Within the terms of that statute, yes. Judge Swayne died last summer, as you may recall.

Mr. BENNET. What other conflicts are there?

Mr. BURNETT. To what court would you suggest an appeal?

Mr. CAMPBELL. To the circuit court of appeals.

Mr. BURNETT. Would you not have the same trouble there, unless you have the right to bring it up here, the different circuit judges holding differently?

Mr. CAMPBELL. I do not think so. I think that the other circuit courts follow the opinions of the circuit courts of appeals.

Mr. BURNETT. You remember that in the employers' liability act they decided differently in two or three courts, and finally they had to come up here to the Supreme Court of the United States.

Mr. CAMPBELL. I think we might manage on a writ of certiorari to get it to the Supreme Court anyhow.

Mr. HAYES. Would not a right of appeal to the Government take it to the higher court in a proper case without specifying?

Mr. CAMPBELL. I am not sure about that.

Mr. BURNETT. Ought it not to come there in the first instance, and save those intermediate appeals?

Mr. BENNET. The trouble is that if you gave the right of appeal to the Government, you must give it to the applicant, too.

Mr. CAMPBELL. I never found any objection to it. Our Commission objected to it, but I can not see but what the applicant is entitled to appeal as much as the Government. If there is anything wrong Congress can remedy it.

Mr. BURNETT. One determination by the highest court would settle it?

Mr. CAMPBELL. Yes. I do not think there is anything more, gentlemen, that I can say in advocacy of that. It is so apparent that nothing more is needed.

Mr. BENNET. Was there not a judge who said that that ninety-day provision meant nothing?

Mr. CAMPBELL. Yes. That was in the case of a seaman. But I think that that was because of the view held, that these special statutory provisions in regard to seamen and soldiers and certain other classes excepted them from the general provisions of this act, and specifically from the ninety-day period of intervention between the filing of the petition and the hearing.

Mr. HAYES. That is, the judge maintained that section 2174 was controlling, and not the general provisions in the naturalization law?

Mr. CAMPBELL. Yes.

Mr. BURNETT. What is the section in regard to the ninety-day provision? Is it ninety days before election?

Mr. CAMPBELL. No; ninety days' time is required between the time when the certificate is filed and when it comes to court for hearing. That is a thirty-day provision before a general election.

Mr. BURNETT. What are your suggestions to remedy that? Do you think that decision was an error? Or was it dignified enough for us to give it some attention?

Mr. CAMPBELL. Yes, I think it is dignified enough to give it attention. I think that all those statutory provisions in regard to soldiers and enlisted men in the Navy and enlisted seamen in the merchant marine and in the Marine Corps should be rewritten, and it should be shown plainly just how far it was the intent of Congress to subject them to this supervision. I am obliged to say that if we were called on to comply with the law, it would be a practical denial of their right. They can not live in a State for a year except constructively. You have difficulty with the courts there, unless you have the right of appeal.

We have even held, in the case of a man who for years has been running up and down the Pacific coast and who claims his headquarters, his residence, at Honolulu, that constructively he has been in the United States all that time, and constructively he has been in the Territory of Hawaii for one year, and that he is fully qualified, so far as those two features go. I wrote a letter recently to Judge Dole concerning that matter.

Mr. HAYES. Personally I do not see any reason why we should make an exception of a soldier or sailor.

Mr. CAMPBELL. The ninety-day clause makes a difference. They file their petitions, and then go to sea and away, and can not personally appear before the court.

Mr. HAYES. I do not see why they should not appear.

Mr. CAMPBELL. It is because they are subject to orders and are sent away.

Mr. HAYES. Commercial travelers, too, have to go away and are subject to orders, are they not? I do not see why we should make a different rule, as I suggested to you in conversation the other day.

Mr. CAMPBELL. I do not argue in favor of it. I am trying to show that there is a doubtful situation presented now by the state of the law, and it is desirable to have that cleared up. I suggested to the Secretary of the Navy, who is deeply interested in the point of view which I have just mentioned, that that is something for him to take up. Personally I do not feel called upon to advocate the interest of any special class of people, and if these sailors were entitled to something of the sort it should be made apparent to Congress, and doubtless the proper provision would be made for it. The Secretary of the Navy is now engaged in preparing a bill, and I think in the War Department also they are doing the same thing.

Mr. HAYES. I believe we are not now enlisting aliens in the Navy or in the Army?

Mr. CAMPBELL. Only reenlisting in the Navy.

Mr. BENNET. Is there a statute against it?

Mr. HAYES. No; but the Department is simply not doing it.

Mr. BENNET. I understand the alien enlistments in the Navy are few nowadays.

Mr. CAMPBELL. Yes.

Mr. HAYES. I don't see any object, then, in our modifying the law to fit those cases any more than any other cases that might prove a hardship.

Mr. CAMPBELL. If you will allow me to make a suggestion, we have sort of run off on that side issue. That will be presented, as I understand it, as a separate measure by the Secretary of the Navy.

Mr. BURNETT. I think it is very proper that we should have Mr. Campbell's views of the propriety or impropriety of it. We would be glad to get all the light we can on it.

Mr. CAMPBELL. I would like to prepare myself for it, because I have not given sufficient consideration to it yet, particularly as the Department of the Navy and the War Department are deeply interested in it. So far as we are concerned, we are simply interested in getting the law and a uniform system. The most important thing to me seems to be the question of fees for the clerks.

Mr. BURNETT. What section is that?

Mr. BENNET. Section 13.

Mr. CAMPBELL. That section, as you will see, on page 8, provides the total payments in the way of fees from petitioners and declarants from beginning to end. In the whole process it amounts to $5, of which the clerk gets one-half. He gets 50 cents for a declaration. He gets $1 for a petition, which is an elaborate instrument about the size of this blotter [indicating], and filled with various particular information as to the man and his family—those who may claim under him by virtue of his naturalization. Then he gets $1 for entering the final order and for the certificate. I am looking at it solely now from the standpoint of the clerk, and I do not hesitate to say that it is absolutely the most inadequate pay for any public officer doing corresponding work in amount and quality. Their execution requires the greatest care. These papers are sent back for correction. The clerk is required to make monthly reports of papers filed and issued and quarterly reports of his fees. He is under heavy penalties for neglecting the performance of his duties. Altogther, it has resulted in the State courts, which have the option to assume jurisdiction or not, as we all know, as they choose under this law, declining to assume jurisdiction, thus forcing petitioners to resort exclusively to the Federal courts, to the great inconvenience of the witnesses and the public generally. It delays litigation in the Federal courts. It overcrowds them with business. It shortens the process before the courts, to the detriment of the Government's interests, because no case can be properly heard within two or three minutes. A Member of Congress told me last year that the courts of his State refused to assume jurisdiction in naturalization cases. I replied that if you pay the clerks of State courts adequately they would assume jurisdiction. It is an onerous duty, and one requiring the greatest care, and all for a pittance.

Mr. BURNETT. The petitioner pays it?

Mr. CAMPBELL. Yes, sir. It costs only $1 more to become a citizen than to land at Ellis Island; and he has to pay the Ellis Island fee in a lump, and the other fee he has five years in which to pay.

Mr. BENNET. What do you think of the fees suggested?

Mr. CAMPBELL. The fee of $11 suggested by the committee is adequate.

Mr. BURNETT. Was that amended in the House?

Mr. BENNET. Yes.

Mr. BURNETT. I know Mr. Bell, formerly a member of the committee, and a former clerk of a court, and he had experience along the same lines as you have had, and he told me——

Mr. CAMPBELL. Much more is required now, and the penalties are very severe.

Mr. HAYES. If we could double up these fees, that would answer the purpose?

Mr. CAMPBELL. If these fees were doubled, in my judgment the Government would be at no expense for the administration of the law, and the clerks would be sufficiently compensated. I thought originally, as a member of that Commission, that the fees ought to be nearer $15, but I compromised, as you might say, on $10, because one of the members thought it ought to be $2 or even nothing if practicable. But the clerks ought to be adequately paid, and I asked that gentleman if he thought the Government ought to make an appropriation for that purpose.

Mr. HAYES. In England it costs about $100.

Mr. CAMPBELL. It is £8. That is about $40. It seems to me that $10 would be very reasonable, and I think it would pay the expense of the administration of the service and relieve the public entirely, and at the same time not accumulate any surplus to become extravagant with.

Mr. BURNETT. Would you suggest $10 in bulk, or something similar to what it is now?

Mr. CAMPBELL. Yes. One point, there, ought to be made a little bit clearer. Judge Hanford has held in regard to this expression in Section 13 at the end of the third paragraph, "For entering the final order and the issuance of the certificate of citizenship thereunder, if granted" in opposition to the Comptroller of the Treasury, that unless the certificate is issued, no final fee is collectible. The clerk gets nothing there, under his decision. That is one of the cases where we want the right of appeal.

Mr. BURNETT. Although the final order is made, yet if no certificate is issued he gets nothing?

Mr. CAMPBELL. Yes.

Mr. HAYES. The clerk is not entitled to any fee.

Mr. BENNET. That makes it to the monetary advantages of the clerk to have a man admitted to citizenship, which is a very bad principle. It seems to me the expression is clear, "For entering the final order and the issuance of the certificate of citizenship thereunder, if granted, $2." If it is not granted it is the same.

Mr. BURNETT. I should think the clerk would issue it whether the fellow called for it or not.

Mr. CAMPBELL. We are talking of a case now where the court denies the petition. The court says, under the decision, you can not make this man pay. He has received nothing.

Mr. BURNETT. There should be a proper construction of it.

Mr. CAMPBELL. If the court does not issue it, it does not follow that no fee should be paid. There are some authorities, judicial authorities, bearing on cases of that character in which it is substantially held that where a series of duties are imposed upon an officer for which he is to receive a fee, if he performs only a portion of such duties because that is all he can do, he is still entitled to the fee.

Mr. BURNETT. Are those cases where they are divided up as they are here, or is a separate fee charged for each service?

Mr. CAMPBELL. I do not recall that.

Mr. BENNET. There is no separate pay here. There is no division of the fee?

Mr. CAMPBELL. No. The final order is the distinct thing.

Mr. BURNETT. "The issuance of the certificate thereunder"—that means the final order. I should think that presupposes the issuance of the certificate.

Mr. CAMPBELL. That is what Judge Hanford thinks.

Mr. BENNET. There is a thing you could settle by having the right of appeal?

Mr. CAMPBELL. Yes. You have seen this copy of the New York Herald, have you not, showing the congested business of the clerk's office of the United States circuit court in New York?

Mr. BENNET. Yes.

Mr. CAMPBELL. I myself have been a witness to it. They handle about 25 per cent of the applicants for naturalization appearing before that court. The other 75 per cent waits and comes and goes. Some have been there as many as six times, with their witnesses, and it puts the applicants to a heavy expense. The answer to that is made by the clerk of the court, to the effect that he can not afford to employ more than three clerks. He gets $3,000, and it takes three clerks to do that much, and while there is a provision in the law that allows the Secretary of Commerce and Labor to pay for additional clerical services where the collections have been in excess of $6,000 in any court, still the Comptroller of the Treasury has held, in view of that act passed in 1902, that there would have to be a specific appropriation to take that money out of the Treasury to pay for this clerk hire. In other words, he holds that that provision that I have referred to here is void. That is the provision contained in section 13. It says—

> The clerks of the various courts exercising jurisdiction in naturalization proceedings shall pay all additional clerical force that may be required in performing the duties imposed by this act upon the clerks of courts from fees received by such clerks in naturalization proceedings. And in case the clerk of any court collects fees in excess of the sum of six thousand dollars in any one year, the Secretary of Commerce and Labor may allow to such clerks, from the money which the United States shall receive, additional compensation for the employment of additional clerical assistance, but for no other purpose, if in the opinion of the said Secretary the business of such clerk warrants such allowance.

Now, the Comptroller has held, and I think correctly, so far as the law is concerned, that he is precluded from rendering an opinion that anything can be done under that, for the reason that on July 1, 1902, the House passed an act, statutes 32, page 560, that "hereafter no act of Congress shall be construed to make an appropriation out of the Treasury of the United States unless such act shall, in spe-

cific terms, declare an appropriation to be made for the purpose or purposes specified in the act." So that practically that part of section 13 is a dead letter. In view of that condition of affairs, we have had a great deal of complaint, and properly so, about——

Mr. BURNETT. The construction would be that he had no right, unless there would be a specific appropriation, to pay for additional clerk hire?

Mr. CAMPBELL. Yes, to make an allowance for those already employed. Because of the complaints and of the situation in New York and at other points, a measure was drafted and attached here recently to the estimates for the urgent deficiency bill, rather a hopeless undertaking; but they considered it, and Mr. Tawney disposed of it very briefly in about three words, saying it was legislation and had no business there. Since then I have had this draft taken over to the Comptroller, so that he might examine it and see in advance whether there is any flaw in it; whether it would accomplish the purposes for which it was intended, and he himself made one little comment in pencil. I want to leave that with the committee, and to urge that it be put in some form, a joint resolution or some other form, as your wisdom will dictate, for early passage, because that is a very serious matter.

Mr. HAYES. Is it in regard to clerk fees?

Mr. CAMPBELL. In regard to the power of the Secretary to authorize the employment of additional clerical help if it is needed. Here it is [submitting same]:

In case the clerk of any court exercising naturalization jurisdiction collects fees in excess of the sum of $6,000 in any fiscal year, the Secretary of Commerce and Labor may allow salaries, only for naturalization purposes, to pay for clerical assistants, to be selected and employed by that clerk, additional to the clerical force, which clerks of courts are required to pay for by section 13 of the act of June 29, 1906 (34 Stat., 596), from fees received by such clerks in naturalization proceedings, if in the opinion of said Secretary the naturalization business of such clerk warrants further additional assistance. Such amount as may be necessary to pay the additional clerical assistance herein provided for is hereby permanently appropriated from any naturalization fees collected and deposited in the Treasury of the United States: *Provided*, That the total salaries of such additional clerical assistants shall in no instance exceed the fees received by the United States from the clerk of that court during such fiscal year.

Provided further, That when at the close of any fiscal year the business of such clerk of court indicates that the naturalization fees for the succeeding fiscal year will exceed $6,000, the Secretary of Commerce and Labor may authorize the continuance of the allowance of salaries for the additional clerical assistance herein provided for and employed on the last day of the fiscal year, until such time as the remittances indicate that the fees for the ensuing fiscal year will not be sufficient to allow the additional clerical assistance authorized by this act.

It is further provided that payment for the additional clerical assistance herein authorized shall be in the manner and under such regulations as the Secretary of Commerce and Labor may prescribe.

Mr. BURNETT. Now, is the effect of that first paragraph only to change the law so as to provide for the payment, as we thought we were providing for, there?

Mr. CAMPBELL. So I understand. That is, not payment in advance; a payment for clerical hire that has been employed, if in the opinion of the Secretary the employment was justifiable.

Mr. BENNET. The defect of the parent statute is this: In the first place, nothing can be done until the end of the year and they find

they have taken in $6,000 in fees. But even then there is nothing by which they can judge that the fees of the next year will be $6,000.

Mr. CAMPBELL. That has been very carefully drawn. I want to leave with each of you gentlemen a copy of the New York Herald containing this article; for while it makes certain mistakes of detail as to the law, it is an accurate description of the state of affairs prevailing there in New York with regard to the congestion existing there. They have to have marshals go in there to clear the halls at times.

Mr. BURNETT. That, you think, is for the lack of sufficient clerical force?

Mr. CAMPBELL. Yes. They have but three clerks to get out fifty papers a day, and some days they have as high as 1,000 applicants.

Mr. BENNET. So far as that statement goes it is correct. But another cause of congestion is that on the days when the court sits—and the hearings must be in open court—they will send, say 100 or 125, those that are ready, and they will pass on, say, 50 or 60. I have known cases within my own experience of fine people going down there two or three or four times, a man and two witnesses; and the man loses his day's time and the wages of the two men that go down with him. Of course that is all wrong.

Mr. CAMPBELL. It is done repeatedly. I thought you were going to refer to another feature of the case. It is very hard to persuade these aliens that a State court can grant Federal naturalization. They think that is State naturalization, and they do not want it. They are obstinate about it, and continue to go to the Federal courts. That is a matter that will rectify itself in the course of time.

Mr. BURNETT. If we increase the clerk's fees will not the State court relieve it to a certain extent?

Mr. CAMPBELL. Yes. I am not sure but that the clerks of the State courts have given some encouragement to that idea. They do not want the business.

Mr. BENNET. A gentleman connected with the Federal courts said that the State courts had used the power of selection, and that they had made theirs a "gentleman's court," and sent the others over to the Federal court.

Mr. CAMPBELL. There is one question that I am anxious about, with respect to that right of appeal, and that is that the present law providing the appeal is that the court shall be satisfied that the alien is of good moral character and entitled to become naturalized. Now, it strikes me that if you are going to have the right of appeal, and that provision remains in there, it would only affect the question of law, because if the court is satisfied, on any or on no evidence, that the alien is qualified, notwithstanding he has a criminal record, it is final, and the appellate court is not going to reverse the decision of that court.

Mr. BENNET. The appeal should be only on questions of law?

Mr. CAMPBELL. I think it should be on both questions of law and fact.

Mr. HAYES. The right of appeal would satisfy that. If it was shown that a man was a criminal you certainly could get a reversal.

Mr. BENNET. That raises a question of law. While there is discretion in the judge, it is only a legal discretion.

Mr. CAMPBELL. There might be many points upon which the court of original jurisdiction would decide that the alien was entitled to be naturalized.

Mr. BENNET. But you must bear in mind that the alien's right of appeal must be coequal with the Government's right. I sat recently with Judge Hough there in New York, and looked at the people coming to be naturalized. He depends to some extent upon the appearance of the applicants. The case such as you bring up raises a question of law.

Mr. HAYES. If there is no evidence to warrant it and it is all the other way, the court of appeals would reverse on that ground.

Mr. BURNETT. They would hold, as our Alabama courts would say, that the judge ought, on those undisputed facts, to have given an affirmative charge.

Mr. BENNET. I would like to ask a question. Section 14, page 9, provides that the declarations of intention and the petitions for naturalization shall be bound in chronological order in separate volumes, indexed consecutively, numbered, and made part of the records of the court. Our clerks over there, both in State and Federal courts, say that under the construction placed on that section by the division they can only use one book at a time. Is it not possible under existing laws to send to one of these clerks as many books as he can use, so that if he puts on this additional force he can use it?

Mr. CAMPBELL. I hardly think so, under this existing law; but there can be no objection from my point of view against having that provision modified to some extent. But I would go very carefully.

Mr. BENNET. So would I.

Mr. CAMPBELL. Here is a case in the District supreme court, for example, where an alien comes in, and here is a great long petition. The clerk gets the facts from him, and says, "I will write this up, and you can come in here to-morrow morning and bring your two witnesses." He fills it all in, and to-morrow morning comes, but the man doesn't come, and two or three months, perhaps, intervene. Then the alien comes along and wants to go back and finish that up, and it makes a very great difference in the matter of accounting. We suggested to that clerk, "Fill out your duplicate and lay it aside without date or number." He says, "Oh, I could not possibly do that with my clerical force." He says, "I must fill that in when the man comes here." I say it is not what you want to do, but what you have got to do.

Mr. BENNET. He fills out all the facts at his leisure, and then he comes back, and then they take that paper and fill it out in the presence of the applicant and in the presence of the witnesses. That is complying with the law?

Mr. CAMPBELL. Yes.

Mr. BENNET. Now, what objection could there be to having two or three clerks doing that at once, and two or three different books in relation to two or three different men?

Mr. HAYES. Mr. Bennet's thought is, What is the objection in such a big city as New York to giving two or three books to the clerks, so that two or three men can work at the same time?

Mr. BENNET. Take, for instance, New York and Brooklyn, two Federal jurisdictions. They each have a book, and are filling out a book at the same time.

Mr. CAMPBELL. The book is in chronological order.

Mr. BENNET. Yes, it is in chronological order, and every man who goes in there is in chronological order. That is the best you can do. You can not have every different alien in the United States put into one book in chronological order. If you have in any case to divide it into separate books, what is the objection to having enough books in each clerk's office to properly attend to the business when it comes in?

Mr. HAYES. I do not see any.

Mr. BURNETT. Would it make any difficulty, Mr. Campbell, to have the books A, B, and C in classification?

Mr. CAMPBELL. As Mr. Bennet has stated, we have already passed an opinion on that subject. As he states the proposition now, I can not see any objection. I am frank to say I do not see any objection.

Mr. BURNETT. That is the only objection I could see, that there might be confusion of having different books on the same thing.

Mr. HAYES. The files are all numbered, anyway, and it seems to me if there is nothing in the law to prevent it, in order to facilitate the operation of it in the courts it is desirable that they should have that right.

Mr. CAMPBELL. In petitions filed in the United States courts and district courts there are perhaps 100 or 200 in volume 1. We keep the record, and when they go from one volume to another they go right on. Say one clerk has volume A and another clerk volume B. The clerk that has volume A fills his up and starts on the next volume. He does not begin at 1 in the next volume, but carries the numbers right on consecutively.

Mr. HAYES. That would not be an objection. The clerk can report to you that he has filled up one from, say, 1 to 60, and the next from 60 to 100, or whatever it might be.

Mr. CAMPBELL. He goes on consecutively, as the law says, numbering the forms, the first one first, and takes up each one in consecutive order from the end of his volume or from the end of the volume that the other clerk is working on.

Mr. BENNET. It would not be any different. It is volume so and so, and number so and so.

Mr. CAMPBELL. It is easy for identification, but in this question of consecutive numbering it is different. If a man finishes one volume and he is going to number consecutively, will he begin from the last number that was entered in his last volume?

Mr. BENNET. Yes, if he has been working on volume 1. How many petitions are there in a volume?

Mr. CAMPBELL. I believe about 500.

Mr. BENNET. When he gets the 500 he starts on volume 2.

Mr. HAYES. You are going on the wrong basis.

Mr. CAMPBELL. The next volume he takes up would be numbered 501.

Mr. HAYES. "The declarations of intention and the petitions for naturalization shall be bound in chronological order in separate volumes, consecutively numbered and made part of the records of the court."

Mr. BENNET. When he has consecutively numbered them, and delivered them to the clerk, the law has been literally complied with. Do they go out from here consecutively numbered?

Mr. CAMPBELL. No, sir; there is no number on them. They number them consecutively themselves. We number the certificates of naturalization consecutively. There are no two certificates with the same number anywhere. We charge up to the clerk certificates from 500 to 1,000.

Mr. HAYES. That makes it a little difficult.

Mr. BURNETT. As a matter of administrative detail would you not have the right to do that?

Mr. CAMPBELL. We could not if it conflicted with the plain requirements of the law; and it was upon that ground, while we admitted the fact of convenience to the clerk, that we held that we could not give him different volumes to work up simultaneously.

Mr. BENNET. Could you not send them out that way from here?

Mr. CAMPBELL. We could do that.

Mr. BENNET. That would cover that objection. What does a clerk do in case he spoils a certificate or paper?

Mr. CAMPBELL. He notifies us promptly and we cancel it and send him another. I will again go over that other matter, when I go back to my office, a little more carefully, and will look into it. I know we did go over it very carefully.

Mr. BENNET. You see, there is no use in increasing the amount for clerical assistance if you can not utilize more clerks. If you can only have one book to one clerk in one office what is the use of having more clerks? But if you can use more books and more clerks, then you can handle your naturalization.

Mr. CAMPBELL. The chronological and consecutive order, then, would refer to the chronological and consecutive order in each volume, and not in the order of the commissions by the court in the clerk's office.

Mr. HAYES. That is what it provides here.

Mr. BENNET. It seems to me it would be a better system if they were consecutively numbered here in Washington, because now the consecutive numbers in the different offices in the United States conflict. They are not the Government's consecutive numbers, but the clerks'.

Mr. HAYES. It would certainly be better to have all the papers numbered consecutively from a central headquarters.

Mr. CAMPBELL. There is one thing that I would like very much to have, although I do not know that I have time now to go into the details, so as to convince you of the soundness of the reasons on which the request is based, and that is examiners, employed for the purpose of ad interim investigations. They ought to be given the same rights as the Chinese inspector, the immigrant inspector, or the special agent has, and that is the right to administer oaths and take testimony.

Mr. BURNETT. What do you mean by special examiners? What do you have reference to?

Mr. CAMPBELL. We have examiners attached to the office of the district attorney to whom we report each case, calling his attention to any apparent defect, and directing that he make some investigation to ascertain whether the facts or allegations contained in the petition are true. Very often they will examine the records of the criminal courts for something and find excellent reasons why a man should not be naturalized. They will find that both the witnesses and the petitioner have misrepresented the length of their residence, and a

number of other points. When these things come up they have the advantage of saying, "Your honor, investigation has been made, and the Government does not desire to make any investigation. It is satisfied." That saves the time of the court. Or when it comes to objecting on cross-examination, it is not a general or vague cross-examination, but it is directed straight to the point of developing that statement and that defect that has been discovered by the examiner. It not only reduces it to a certainty, but it saves an immense amount of time.

Mr. BURNETT. Is that all, except what we have rather passed over?

Mr. CAMPBELL. Practically all except what we passed over.

Mr. BENNET. If there is no objection, Mr. Burnett will be constituted a subcommittee to formulate something on the question of fees of clerks. That, I take it, would cover everything in section 13. Mr. Hayes will be constituted to propose a bill covering the question of the right of appeal.

Mr. HAYES. You think we should give the right to both parties?

Mr. BENNETT. I do.

Mr. CAMPBELL. I have always thought that both should have it.

Mr. BENNET. There is a bill already drafted changing the law so as to give the clerks the right to that money. We attempted to do it in our law, but we did not make it "fit the crime." The Comptroller has drafted a statute to remedy it. Will you take charge of that one, Mr. Moore [of Texas]?

Mr. MOORE, of Texas. Yes.

Mr. CAMPBELL. There is one other measure, and that is in regard to the right of examiners to administer oaths.

Mr. BURNETT. I thought you said the Department of Justice would take that up.

Mr. CAMPBELL. I think the Department of Justice will have to help me about this.

Mr. HAYES. Those four things are all we need. You think if a certificate is denied and we give you the right of appeal you can settle that?

Mr. CAMPBELL. Yes.

The committee then adjourned.

SUBCOMMITTEE OF THE COMMITTEE ON
IMMIGRATION AND NATURALIZATION,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Tuesday, February 18, 1908.

The subcommittee met at 10.30 o'clock, a. m., Hon. William S. Bennet, chairman, presiding, with Representatives Hayes and Burnett present.

The subcommittee thereupon proceeded to the consideration of sections 12 and 13 of the naturalization law.

STATEMENT OF RICHARD P. MORLE, ESQ., OF BROOKLYN, N. Y., CLERK OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK.

Mr. MORLE. Gentlemen, I will say that I have appeared before you in reference to the provision that is made in section 13 as to com-

pensation for additional clerical force for the clerks of the several courts exercising jurisdiction in naturalization proceedings.

Section 13, as you recall, provides that the clerks of courts exercising jurisdiction in naturalization proceedings shall be permitted to retain one-half the fees received by them in any fiscal year up to the sum of $3,000. From that $3,000, for the first nine months of the first fiscal year (the act going into effect on the 27th of September, 1906), up to the end of the fiscal year, June 30, 1907, I received or retained $2,250, which was nine-twelfths of the $3,000 allowed. From that $2,250 I paid out $2,100 for clerks' fees. I bought a typewriter, and had to pay for all my printing. The result was that at that time I had but a few dollars left for myself. I bought a second-hand typewriter for $55, and had to pay for the printing of calendars of naturalization cases for the courts, and also one for the district attorney, who examines the applicant and the witnesses in open court, printing notices to send to the applicants and the witnesses for their appearance before the court on the day set for the hearing. Those things I have to pay for out of my own expenses.

For the nine months that I referred to I received, in fees, $9,628. It was from that amount that I retained the nine-twelfths of $3,000, which was $2,500. I paid in, then, to the Government $7,378, and I have received no additional compensation for clerk hire as provided in section 13, the Comptroller of the Treasury holding that there was no appropriation made by Congress to pay that additional clerk hire. The act provides that the Secretary of Commerce and Labor may allow additional clerk hire if in his opinion the business of such clerk warrants such allowance; but the Comptroller said that the Secretary of Commerce and Labor could not make that allowance because there was no appropriation to pay it. The result is that all that I have received has been paid out, and there has been no compensation to me at all.

From July 1, 1907, to February 15, 1908, I have received as fees $8,825. Up to the present time I have had, as expenses of clerk hire, three clerks, two at $900 and one at $1,200, which is at the rate of $3,000 a year. If I retain only the $3,000 I will have to pay that all out to those clerks. The result is that unless I take it out of my own pocket (as it has already come, in expenses), I have not anything for stationery, calendars, or notices. The Department of Justice has refused to allow me one penny for stationery, covering ink, pencils, paper, or anything that is used in the naturalization bureau of my office. So that has to come out of my own pocket.

As clerk of the court I am not making my maximum which is allowed by law—$3,500. Last year I only received from the emoluments of my office $3,375; whereas my maximum is $3,500. I ask that some relief be provided by the committee for the clerks of courts; and understanding that the bill now before Congress, introduced by Mr. Moore, does not altogether cover the provision for additional clerk hire, as it is all permissive and not mandatory, I would like to bring the matter to the notice of the committee. If they will examine section 13, after the words "provided, that the clerks of courts exercising jurisdiction in naturalization proceedings shall be permitted to retain one-half of the fees in any fiscal year up to the sum of $3,000," I would suggest that there be inserted the provision: "And the amount allowed by the Secretary of Commerce and Labor for

additional clerical assistance"—that the clerk retain it. This is to go into the Treasury. I have to make application to the Treasury. The result would be that I would have to come back to the committee, or other clerks would have to come back to the committee, again, and see if something could be done. This will not end it. The same section goes on and provides that "in case the clerk of any court collects fees in excess of the sum of $6,000 in any one year, the Secretary of Commerce and Labor may allow"—there comes the provision again—"to such clerk, from the money which the United States shall receive, additional compensation for the employment of additional clerical assistance, but for no other purpose, if in the opinion of the said Secretary the business of such clerk warrants such allowance."

In regard to that last quotation from this section, I would like to bring to the committee's notice the suggestion that the words "which the United States shall receive" be stricken out, and the words "so received by him as fees" inserted, and the word "may" made mandatory.

Mr. BURNETT. What word would you insert there in place of "may?"

Mr. MORLE. If you will look at this (exhibiting printed copy of bill to Mr. Burnett), if you will read from the word "provided"——

Mr. BURNETT. Yes; I saw that yesterday.

Mr. MORLE. After you get down to $3,000, "and the amount allowed by the Secretary of Commerce and Labor for additional clerical assistance," it goes on and says that he shall allow that if in his opinion the business of the clerk warrants it. But he does not allow it, although it says he shall allow it if in his opinion he warrants it. So that is quite a saving clause to the Secretary of Commerce and Labor; and unless it is warranted, unless his opinion warrants it, he will not make it.

Mr. BURNETT. I understand.

Mr. MORLE. If you strike out the words there "which the United States shall receive," and "go into the Treasury," and "so received by him as fees," the money can be retained by the clerk.

Mr. BURNETT. You want the clerk to retain it instead of paying it into the Unites States Treasury?

Mr. MORLE. If the act provides that he shall retain the $3,000, why should he not retain the allowances made by the Secretary of Commerce and Labor for clerical assistance?

Mr. BURNETT. Yes; I see your point. Have you gotten any opinion of the Secretary of Commerce and Labor on this matter?

Mr. MORLE. No; not on my suggested amendment.

Mr. BURNETT. Do you know how he looks at it—whether he favors it or not?

Mr. MORLE. I talked with Mr. Campbell yesterday, and he thought that this bill that was introduced by Mr. Moore would cover all of the provisions. I told him then that it was only permissory, and gives the permission to do it; and I said: "We have got now, after we get that allowance, to go to the Treasury and get it out of the Treasury. All the money is paid out; the clerks pay this money out of their pocket, and then they have got to wait until they get it from the Treasury; whereas if they can retain it, they have the money there to pay their clerical hire." It is unfair to ask the clerk to pay that money out of his pocket for additional clerical assistance, which

amounts to $3,000 a year, and then, at the end of the fiscal year, come to the Treasury to get it. He is paying out for every one of the twelve months $250 out of his pocket, and he does not get it until the end of the twelve months; and we know how long it takes after that, because it takes things time to pass through the Treasury.

Mr. BURNETT. What is Mr. Campbell's opinion about that?

Mr. MORLE. He thought that was the best thing that could be done, because the Comptroller thought that was the best way.

Mr. BURNETT. He thought it was best to let it come in here?

Mr. MORLE. And let it come through the Treasury. I do not think it is fair to the clerks to ask them to take $250 out of their pockets every month to pay clerk hire, and then wait until the end of the year to be reimbursed.

Mr. BURNETT. Let me ask you a question there: We are increasing the fees of the clerks on these different papers that they issue?

Mr. MORLE. Yes.

Mr. BURNETT. Will not that relieve you to some extent, by causing a greater number of applicants to go into the State courts?

Mr. MORLE. Oh, as to the State courts, let me explain to you: We will take the example of both New York and Brooklyn. The clerks employed by the county clerk are paid by the city. In Brooklyn one gets $2,400 a year, and two get $1,500 a year. They are paid by the city. They will not take more than four petitions and eight declarations a day.

Mr. BURNETT. That is because the fees are now so small, is it not?

Mr. MORLE. And if the fees were greater, those clerks would be paid just as much. The clerks employed and paid by the city would be paid just as much for doing four as for twelve; and they do not take them. They are constantly sending them over to the United States courts. They say: "We cannot take any more to-day; go to the United States courts." The result is that I have a long line down my corridors; and as Mr. Campbell told me yesterday, the President had directed him and Mr. Murray to come to New York and examine the conditions of affairs. He found 53 in a line. He went along the line and asked the men how many times they had been there to get their papers; and there was but one in that line who said that that was the first time he had been there. Some had been there three, four, and five times. If you will examine you will see that we have got to make out declarations in triplicate. Those triplicates, as you will see by the provision of the act, must give the man's name, his age, his occupation, his color, his complexion, his height, his weight, the color of his hair, the color of his eyes, his visible distinctive marks, where he was born, and what place he emigrated from. Then it goes on and gives other provisions. Now, you know that no one man can sit down and write that out in anything less than twenty minutes. I have tried it with the most rapid writer I could get, and it took him twenty minutes, writing rapidly.

Mr. BURNETT. Are your clerks men or women?

Mr. MORLE. They are all men. Another thing: I have to measure them. I have no means of weighing them, because I tried to get a weighing machine, and it cost $42; and I did not propose to pay for it out of my pocket. I paid for a typewriter, and I was not going to pay any more out of my pocket. So I fixed up a thing around the door that I have to measure every man with.

Another thing, as to petitions: It is not provided that the description of the applicant shall be put in the petition. The result is that when he comes up and is naturalized, the certificate requires that he must have his description. Then I have to measure him and weigh him, or, rather, get his weight from him (I do not weigh him); I have to measure him and ask him his weight. A great many men guess at it, but I can not do any other way; I have no means of weighing them. So I simply measure them. In that certificate I have got to give the height, the color, the complexion, the color of the eyes, the color of the hair, and any visible distinguishing marks on the body. Sometimes you will ask a man if he has any visible marks on him, any cuts or anything about his hands, and he will say: "No, no;" and he will hold up his hands, and you will find the first joint of his finger gone, or that one finger is prefectly stiff, or some injury to his feet, or a cut across his hand, or a scar on his face. Some of these Italians have got them where they have been slashed across the face; and you have got to examine into all that. We get through naturalizations at 6 o'clock in the evening, and if we have naturalized 40 that day I have them in line after 6 o'clock; and it keeps me there sometimes until 9 o'clock at night before I can get those descriptions from those men. I only get the descriptions, and I make out the certificates afterwards, because they have to be made out in duplicate. I get their description in pencil on this certificate, and then fill it in afterwards; and that is very laborious work. I can assure you, gentlemen, that there is not one day of the week that we will leave my office before 6 o'clock in the evening, all on account of the naturalizations; and some weeks I have had to work on Sundays.

Mr. BURNETT. Is that about all you want to state?

Mr. MORLE. I think that is about all, if there are no other questions to ask.

Mr. BURNETT. There is nothing further that I care to ask. We are much obliged to you, Mr. Morle.

Mr. HAYES. We are very much obliged indeed.

Mr. MORLE. I am glad to present the facts to you as they exist.

Mr. BURNETT. If there are any papers you want to file with the stenographer, or any additional statement that you would like to make, you can put them in.

Mr. MORLE. No; nothing. I have given him the figures.

The following letters were also made a part of the hearing:

OFFICE OF THE CLERK,
CIRCUIT COURT OF THE UNITED STATES,
SOUTHERN DISTRICT OF NEW YORK,
New York, January 30, 1908.

Hon. WILLIAM S. BENNET,
Member of Congress, Washington, D. C.

DEAR SIR: I have the honor of calling your attention to the volume of naturalization business in this court for the year ending December 31, 1907.

Ten thousand, five hundred and sixty-eight declarations of intentions to become citizens of the United States were actually filed and recorded in original, duplicate, and triplicate, and 194 petitions for the final certificate of citizenship were recorded in like manner, making a total of $11,344 earned by me as clerk of the United States circuit court. The compensation allowed me by law is $3,000 a year, and with three clerks engaged exclusively in this character of work, the limit of the capacity is reached in the above figures. There is also much detail to be attended to aside from recording and handing out papers, such as indexing, correspondence, searching the records for people who have lost their papers, and a multiplicity of questions to be answered daily.

As the business necessarily demands extreme care and efficiency I find that to retain competent clerks it will be necessary to reduce the force at my command to two and possibly one, at the rate of compensation now allowed. The demand is exceedingly great and still increasing, as you will readily see from the following figures:

Twenty thousand blanks known as "facts" for the declaration of intention to become a citizen of the United States were received from the Department of Commerce and Labor during the five months ending December 31, 1907. When business was resumed the first working day of January, 1908, I had remaining on hand less than 2,000 such blanks. You will therefore observe that during the five months above mentioned about 18,000 persons applied for first papers alone and only 5,222 could be accommodated.

I recite the above conditions merely to illustrate the enormous increase of persons applying for citizenship, and the very limited means at my disposal in supplying the demand.

Respectfully, JOHN A. SHIELDS, *Clerk.*

OFFICE OF THE CLERK, CIRCUIT COURT OF THE UNITED STATES,
SOUTHERN DISTRICT OF NEW YORK,
New York, February 15, 1908.

HON. WILLIAM S. BENNET,
Member of Congress, Washington, D. C.

MY DEAR SIR: I have the honor to acknowledge receipt of your letter of February 8, and to state briefly the naturalization business in this court; also an expression of opinion regarding the simultaneous use of two or more volumes in carrying on the work.

On October 1, 1906, I put into execution in this court the act of June 29, 1906, and at the expiration of the fiscal year ending June 30, 1907, the records show earnings amounting to $7,014. Four thousand seven hundred and sixty-four dollars was transmitted to the Secretary of Commerce and Labor, leaving $2,250, compensation for clerks engaged exclusively in this character of work. The act states, as you well know, that clerks of courts exercising jurisdiction shall be permitted to retain one-half the fees in any fiscal year up to the sum of $3,000. I therefore inquired of the division of naturalization to be advised, inasmuch as the $3,000 fixed by law was earned in less than nine months. The result of this inquiry was that I could only retain three-fourths of $3,000 for that fiscal year, which I must confess was wholly inadequate to pay competent clerks employed for naturalization purposes only. Notwithstanding this, the demand for papers was steadily increasing, and in order to secure some relief I was obliged in justice to the clerks carrying on the work, to employ an additional clerk, beginning with July, 1907, and to depend for my protection on section 13 of the act which had not been construed by the Comptroller up to that time. I thereupon sought relief under the above section, and on August 14, 1907, the question was decided by the Comptroller in the negative.

The situation at present in this court is that three clerks are thus exclusively employed; one an authorized deputy who consults with me from time to time, though I assume entire charge of the work at the final hearing before the court on each return day. You will undoubtedly agree with me in saying that Congress never intended that I should advance money out of my own pocket in carrying on the naturalization business in this court.

Much care and efficiency is demanded of the clerks attending to this work, and in view of the responsibility necessarily involved I shall be obliged to reduce the number of clerks to two and possibly one, unless some measure of relief is near at hand.

As to the propriety of using two or more volumes in carrying on the work, as suggested in Department's letter of January 25, I made a practical test as compared with the method now in use here, particularly of the declaration or first paper, with the following results:

Time occupied in filing and recording the declaration of intention in original, duplicate, and triplicate was ten minutes, or an average of 12 declarations per hour, with three clerks. I am now, and have been for some time, recording from 15 to 20 first papers per hour with the same clerks. Like results would also apply on the petition or final papers if I had sufficient means for clerical assistance in keeping both books working continuously, which in my judgment is the only solution of the problem. Frequently it happens that the

record of final papers remains idle for hours, while the clerks are recording a long line of declarants, and, on the other hand, the book of first papers will be idle while applicants are filing petitions for final papers.

With sufficient clerical assistance this would be easily overcome and the source of much annoyance to petitioners and the citizens who appear as witnesses would be materially removed. We must not forget that applicants for first papers have a decided advantage over those applying for final papers. The former require no witnesses and can easily secure a position on the line at the opening of the office. The petitioner for final papers, however, must first arrange to have his witnesses, who, perchance, are scattered throughout the city, and by the time they are brought together, the number of applicants at the office have already been counted and received numbers for that day, while the petitioner and witnesses must simply try again. The simultaneous use of two or more volumes of declarations or two or more volumes of petitions would, I am afraid, be inconsistent with section 14, which provides for the consecutive numbering of each paper. This we would find extremely difficult.

I seem to obtain the best results by dividing the work on each declaration or each petition among two or more clerks than by having one clerk each record and finally pass upon an applicant for citizenship.

In conclusion I would respectfully urge the necessity of my request under the act, which was decided by the Comptroller in the negative, that I be allowed an additional $2,000, beginning with the 1st of July, 1907, out of the moneys the United States has received, to enable me to carry on the naturalization business in this court for the current fiscal year. This is the same request approved by his honor, Judge Lacombe, and transmitted to the Department under date of July 25, 1907.

Very sincerely, yours, JOHN A. SHIELDS, *Clerk.*

The committee then took up other matters.

SUBCOMMITTEE ON NATURALIZATION,
COMMITTEE ON IMMIGRATION AND NATURALIZATION.
Tuesday, April 7, 1908.

The subcommittee met this day at 10.30 o'clock a. m., Hon. William S. Bennet in the chair.

Present: Mr. Bennet, Mr. Moore, of Texas, and Mr. Burnett.

Mr. BENNET. I understand, Mr. Loud, that you have a matter which you wish to present to the committee. You may proceed now.

STATEMENT OF HON. GEORGE A. LOUD, A REPRESENTATIVE FROM MICHIGAN.

Mr. LOUD. There has been brought to my notice the case of Mr. B. Bennett, a resident of my district, whose home address is West Branch, Ogemaw County, Mich., and who is now about 50 years of age. He and his three brothers have from their majority voted at the elections, believing that they had every right to do so. Their father came to this country from England when this Mr. B. Bennett was 9 years of age. The records are found showing that he had taken out his first papers, but as yet no records are found where he completed his naturalization; but it was assumed that he had done so, because he had voted at several elections before these sons became of age, and they knew that their father had been in the habit of voting at every election for many years. Mr. B. Bennett is a most respecte citizen in the community in which he lives, and has held many respo sible offices, having been commissioner of education, mayor of the c of West Branch, chairman of the county committee, and membe the district congressional committee. His brother, as I underst

is an attorney at law, and is satisfied that if he is not a citizen he is deprived of his right to practice law.

Mr. BENNET. Mr. Loud, is it not possible that there are other men in your district similarly situated to the Bennett brothers?

Mr. LOUD. I believe there would be others.

Mr. BENNET. Michigan, as I recall it, is one of the States in which, up until recently, an alien could vote on simply his declaration of intention, without taking out full citizenship papers, and therefore probably there are numbers of people who never took out their final certificates, assuming that they had full rights under their first papers.

Mr. LOUD. That is true. My hope in this matter is that legislation may be formulated by this committee and brought before the House whereby a man who was brought as an alien into this country in early youth and has always had the idea that he was a citizen, owing to the naturalization of his father, may now become a citizen and be permitted now to take out his second papers without delay and without filing the declaration of his intentions.

Mr. BENNET. The committee will take the matter up in executive session.

Mr. LOUD. The prominent position held by this man in the community only accentuates the importance of providing some relief of this kind in this and similar cases.

Mr. BENNET. The committee will now take up the bill H. R. 19797, and will hear Mr. Steenerson.

STATEMENT OF HON. HALVOR STEENERSON, A REPRESENTATIVE FROM MINNESOTA.

Mr. STEENERSON. I suppose I can file these papers with the clerk?

Mr. BENNET. Yes.

Mr. STEENERSON. The occasion for this proposed legislation is found in the statement of the clerk of the district court at Warren, Marshall County, in his letter to me of February 25, 1908, which I will file with the committee.

Briefly, the situation that has arisen in Minnesota is this: The district courts of the State are courts of general jurisdiction and exercise authority in naturalization matters. There are something like 16 or 17 judicial districts. In some instances, as in the case of the county of Ramsey, where St. Paul is located, the judicial district comprises only one county, but in other parts of the State there are several counties in each judicial district. Marshall County, for instance, is in the fourteenth judicial district, in which are embraced the counties of Kittson, Roseau, Marshall, Red Lake, Pope, Norman, and Mahnomen.

When the naturalization act of June 29, 1906, went into effect, the judges of the district court, at least many of them, interpreted that act to mean that courts sitting in any county could naturalize a resident of that judicial district. The clerk of the court of Marshall County, for instance, advised with the judge, and after receiving his construction of the law granted naturalization papers to persons residing in the fourteenth judicial district, but outside of Marshall County. The clerk now writes that the United States district attorney for Minnesota has ruled that these naturalizations are void.

I addressed a letter to the Department of Commerce and Labor, inclosing the letter of Mr. Swandby, the clerk of the court of Marshall County, and requested that the matter be submitted to the Department of Justice, as I questioned the correctness of the construction referred to. In response I received a letter from the chief of the Division of Naturalization, dated March 21, 1908, stating that the Department had reexamined the question of the meaning of the language of section 3 of the act referred to, which reads as follows:

That the naturalization jurisdiction of all courts herein specified, State, Territorial, and Federal, shall extend only to aliens resident within the respective judicial districts of such courts—

They added that they adhered to the interpretation that the clerk in the district court in Minnesota could not grant naturalization papers to persons residing within the judicial districts but outside of the county.

The letter further states, on page 5, as follows:

Replying directly to your inquiry, I beg to state that I can see no objection to the adoption of legislation validating the naturalization of those who have heretofore actually received certificates from courts sitting in some other county than that of their residence, provided that such certificates are not validated in any other respect.

It was with this letter before me that I drafted the bill.

You will observe from the terms of the bill—it embraces only nine lines—that it applies to Minnesota only. I am advised that there are probably similar conditions in other States, and I have no objection to making the bill general.

Mr. BENNET. And I presume you have no objection to any course that the committee would pursue in order to cover the case?

Mr. STEENERSON. No. I would be glad to have them make any changes that they may think of. The object I have in view is simply to remedy the cases referred to in Marshall County which have been called to my attention.

I might say that the failure to pass a curative act to cover the Minnesota cases would entail perhaps greater hardships than elsewhere, because the right of citizenship does not alone affect the right to vote, which is not so very vital to a person, but in this section of Minnesota the right of citizenship may involve the right to have property. Under the homestead law a man has the right to prove up five years after he has made his entry, and he is bound to prove up within seven years after he has made his homestead entry. If he fails to prove up within seven years, the land is forfeited to the State, and is open to another entryman, and a man can not prove up without having his second papers. Now, some of these papers have only a short time in which to be proved before the seven years expire, and it would be possible, if this legislation should fail, for some claim jumper or man who wanted to steal their land to go in and make an entry and take away both their land and their improvements, and not only their privileges, but their property and their houses and homes are dependent upon this proposed legislation. I therefore consider it very urgent, and hope that the committee will take that view.

Mr. BENNET. This homestead matter is the same matter to which you called the attention of the House when the naturalization bill was before us last Congress, and which, so far as it was then affected, was covered by the amendment which you prepared?

Mr. STEENERSON. Yes. The bill was modified as originally proposed so as to cover these cases. I would say that the suggestion of the Department about fraudulent naturalizations has no practical application, so far as my observation goes, to this section of the State. There is very little contest for offices, and there is no motive or incentive to getting people naturalized for the purpose of getting them to vote; and, in fact, in my residence in the northern part of Minnesota, ever since the country was settled, for more than twenty-eight years, I have never known of a fraudulent naturalization case.

Mr. BENNET. In other words, you are convinced that this is simply an honest error of judgment.

Mr. STEENERSON. Exactly. It was simply an honest error of judgment, and made by judges who are usually, and in this case I know are, eminent gentlemen; and I submit that anyone reading that decision of the act on its face would conclude that the "judicial district" meant judicial district. As they construe it, it means a county.

Mr. BENNET. I think that there was room for doubt in connection with the language, and that the judges were justified in putting that construction on it.

Mr. STEENERSON. I would have done the same thing if I had been a judge.

Mr. BENNET. The language is, "Within the respective judicial districts of said court." Inasmuch as the language is open to that construction, I do not see how anyone could be blamed for adopting that construction, especially in a country where they have several counties inside of a district. We have a similar situation in the rural portions of New York. Our county of New York is the only one of the 61 counties of New York State which is a judicial district by itself.

Mr. STEENERSON. I am not satisfied in my own mind that the Department's construction is right. But if we should wait judicial determination, it would take a long time, and in the meantime all administrative officers of the Government, such as the Department of the Interior, would refuse to recognize these naturalizations, and the people would be inconvenienced or injured in their rights as I have suggested, so that this curative act would relieve them, even if they finally might be decided not to need any relief.

Mr. MOORE, of Texas. You say this will affect some of their land titles in Minnesota?

Mr. STEENERSON. Yes. Suppose you had a homestead taken on the 1st day of June, 1900, and you did not want to prove up. You could prove up in five years, but as soon as you prove up you have to pay taxes on your land. Most of those people live there anyway and they wait, and then they have got to have their naturalization papers a month or six weeks before the time to prove up. They attend a term of court and get their second naturalization papers, with the witnesses. Some of these people have done that, and many of them have submitted their final proofs by this time. If the Department discovers that the man resided in Roseau County, whereas his naturalization paper was granted in Marshall County, the clerk down here in the General Land Office will look them over and may reject the proofs, as the man was not legally naturalized under the ruling

of the Department of Commerce and Labor. The proof is rejected, the time for making the final proof has expired, and the land is forfeited, so that a man's house and home might be taken away from him simply because he did not have legal naturalization papers.

Mr. MOORE, of Texas. He didn't take out his papers in the judicial district?

Mr. STEENERSON. No; but if I was a judge I would hold "judicial district" meant judicial district.

Mr. BENNET. We will take this matter up also in executive session in connection with similar legislation.

DISTRICT COURT, FOURTEENTH JUDICIAL DISTRICT,
Warren, Minn., February 25, 1908.

Hon. H. STEENERSON,
House of Representatives, Washington, D. C.

DEAR SIR: I, as clerk of the district court, together with others, have in the past acted upon the advice of the district judges and taken applications for naturalization anywhere in the district. This is under the naturalization laws and regulations, act of June 29, 1906, and particularly under subsection 4 thereof. I am now informed that our United States district attorney for the district of Minnesota has held that a clerk of the district court can not entertain an application for citizenship outside of his own county. At the present time I have on file four different applications for citizenship, two of which are to be heard on April 10 and two on June 22 next.

I write to ascertain whether or not you could propose an amendment to the said naturalization law so as to cure these applications so made out of the county of the clerk before whom they are taken. If this could be done, it would mean a great saving to a good many applicants, both in time and expense, as well in other counties as in this county. I personally know that Polk, Red Lake, and Kittson counties are in the same position as I am. Anything you would kindly do toward this object will be of much value to applicants on file, and will be greatly appreciated by the public.

I am taking much interest in the bill presented for a raise of the fees for clerks of courts in regard to the making of naturalization applications and the perfecting thereof. This is also the case with all clerks that I have talked to with reference to this part of the work. I must add that the clerk is not paid for the work that he has to do with reference to the naturalization of applicants, which fact you are well aware of, and I need call no further attention to it. Anything you can do to favor this bill will be greatly appreciated by myself and others.

Very respectfully, yours, A. C. SWANDBY.

DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF IMMIGRATION AND NATURALIZATION,
Washington, March 21, 1908.

Hon. HALVOR STEENERSON,
Representative in Congress, Washington, D. C.

SIR: I beg to acknowledge the receipt of your letter of the 17th instant, inclosing a communication to you from Mr. A. C. Swandby, clerk of the district court for Marshall County, Minn., relative to the naturalization law of June 29, 1906.

With reference to the construction of the said act to which you refer, it has been reached after a careful consideration of the third paragraph of section 3 of the said act, which contains the following language:

"That the naturalization jurisdiction of all courts herein specified, State, Territorial, and Federal, shall extend only to aliens resident within the respective judicial districts of such courts."

In considering the meaning of the term "judicial district," it seems not unreasonable to hold that it is intended to define the area to which the authority of such courts extends while sitting, by whatever title such area may be designated. Thus the supreme court of the State of New York has jurisdiction throughout that State, but the said court sits in each one of the counties of New York, and while so sitting its jurisdiction extends to the limits of such counties only. In some States there are district courts, so called, such districts in general comprising perhaps a number of counties. If any such district court sits in only one place in a district so constituted,

its naturalization jurisdiction obviously extends to all residents of such county, just as its jurisdiction does with reference to any other matter cognizable by such court.

If, however, such district court has a clerk's office, and sits in each county of "its judicial district," while sitting in such county its jurisdiction does not extend beyond the limits thereof, either in naturalization matters or in any other matters cognizable by it, as it is confined to the limits of such county. The same is true of the circuit courts of some of the States. In some instances these courts sit only in one county in the circuit; in other cases they sit in each of the counties of the circuit to transact the business, while so sitting, specifically of that county.

This Office has therefore reached the conclusion that the term "judicial districts," as defining the extent of the naturalization jurisdiction of any court, refers, as stated above, to the area over which such jurisdiction extends while it is sitting at any one place where it has a clerk's office and records.

While it is believed that such a construction of the law is not open to serious objection under any circumstances, it was confirmed in believing such views sound, as tending to make the purpose of the naturalization act effective.

Thus in section 5 it is provided:

"That the clerk of the court shall, immediately after filing the petition, give notice thereof by posting in a public and conspicuous place in his office, or in the building in which his office is situated, under an appropriate heading, the name, nativity, and residence of the alien, the date and place of his arrival in the United States, and the date, as nearly as may be, for the final hearing of his petition, and the names of the witnesses whom the applicant expects to summon in his behalf; * * *."

The obvious purpose of posting the names of petitioners and their witnesses is to give notice to the public generally of such applications and the evidence upon which they are to be supported, and specifically to that portion of the public which, by proximity of residence and that go to the same courts for general business purposes, may be presumed to be best acquainted with the petitioners and their witnesses.

If this view be correct, then such object would be defeated if it were held that the term "judicial district" referred to any place within the district or circuit or State over which the jurisdiction of the court in general extends, rather than in the particular county or assemblage of counties over which its jurisdiction extends while sitting therein.

The obvious interest of an unworthy applicant would be to go as far from his residence as possible, to some point where neither he nor his witnesses are known, and thus the publication required in the last quotation from the act would be of no avail. This is not an imaginary case. Instances have occurred in the State of New York of aliens seeking a temporary residence, exclusively for naturalization purposes, at a place remote from their actual homes, so that the objections known at the latter place to exist could not be urged in opposition to their naturalization in the newly acquired residence. I am informed by the assistant United States attorney in New York that in several such cases he has successfully prevented the naturalization of aliens who have thus made use of a fictitious residence to evade the natural results of publication at their own homes, the court holding that the residence so acquired was not bona fide.

In view of the foregoing I think it would be a serious obstacle to the efficiency of the naturalization law to relinquish this construction, and I believe, moreover, that it is one that consists with the convenience of the great bulk of petitioners, both as regards expense and travel.

Replying directly to your inquiry, I beg to state that I can see no objection to the adoption of legislation validating the naturalization of those who have heretofore actually received certificates from courts sitting in some other county than that of their residence, provided that such certificates are not validated in any other respect.

With respect to your suggestion that if the question is one of sufficient doubt it might be referred to the Department of Justice for a construction, I would suggest that such construction would only bind administrative officers. It would not control the courts. They might, at any time, reverse it. It would seem, therefore, to leave the naturalized alien in a state of much greater security, as regards the certificate validated, of his status as a citizen if the narrow construction of this office, for which the reasons have been briefly given above, should be complied with in future.

In compliance with your request there is returned herewith the letter from Mr. A. C. Swandby.

Very respectfully,

RICHD. K. CAMPBELL,
Chief Division of Naturalization.

Mr. BENNET. The committee will now hear Mr. Waldo in relation to the bill H. R. 17989.

STATEMENT OF HON. GEORGE E. WALDO, A REPRESENTATIVE FROM NEW YORK.

Mr. WALDO. The bill H. R. 17989 is to amend section 6 of the naturalization act passed and approved June 29, 1906. This section, as perhaps the committee already knows, provides that ninety days must elapse after filing and posting the notice of the petition before the matter can be heard for obtaining the last paper. This is probably well enough, so far as the people who live on the land are concerned, but it is found in the case of men serving in the Army and in the Navy and in the Marine Corps and in the case of seamen on board merchant vessels that it makes it practically impossible that they should be naturalized. They may not be on shore long enough, and then in other cases, where they have given notice of their witnesses and a witness dies or goes away or the ship is about to sail, they are not allowed to bring other witnesses, under the decision of Justice Lacombe.

I will file that decision with you here, and also the correspondence between the clerk of the United States district court for the eastern district of New York, Major Morle, and Marius Nilson, chief quartermaster of the United States Navy on the U. S. S. *Panther*.

In this case, although the man had been in the service of the Navy for eight and five-twelfths years and had two honorable discharges, he has never been able to stay long enough in any one place to be naturalized, although I suppose he claims his residence in Brooklyn.

Mr. BENNET. Have you not made your bill wider than you intended? What you are trying to do away with, so far as seamen are concerned, is the ninety-day clause; but you also, if you pass your bill, strike out this: "*Provided*, That no person shall be naturalized and no certificate of naturalization shall be issued by any court within thirty days preceding any general election in the territory within its jurisdiction."

Mr. WALDO. I do not think there is any serious objection to that in the case of soldiers and seamen. It might be objectionable in case a regiment was stationed in some place, but it would be very doubtful whether they would be entitled to obtain naturalization in that district. Are they not obliged to go to the district where tney live?

Mr. BENNET. Yes; where they live.

Mr. WALDO. The officers and men of the Army have no residence at a post where they are stationed unless that otherwise happens to be their residence. That might possibly happen. I have no objection to that change.

Mr. BENNET. You do not care particularly to have your bill apply to that?

Mr. WALDO. No. I do not think that is necessary. The thing I wanted to cover was the case of Army officers and men who might send word and have notice given beforehand, or they might desire to come there and take out their second papers. Perhaps they would not be there two weeks, and in the case of a sailor, he might not be there more than two or three days.

Mr. BENNET. He never would be in any particular place for ninety days?

Mr. WALDO. No.

Mr. BENNET. Will you file the papers?

Mr. WALDO. Yes. I can see that there might be cases, particularly in the larger cities, where there might be a sufficient number of soldiers to make it an object to naturalize them; and, of course, that we do not want to do.

Mr. BENNET. We will take the bill up in executive session. I might say, Mr. Waldo, before you go, that I have referred your bill to Mr. Campbell, the Chief of the Division of Naturalization, and he has returned a reply, which I will make a part of the record, commending the bill.

Mr. WALDO. I think it ought to be enacted. Nilsen was a quartermaster, who had been nearly nine years in the service and never had been anywhere long enough to be naturalized.

UNITED STATES CIRCUIT COURT, *Southern District of New York.*

In the matter of the petition of Joseph O'Dea, to be admitted as a citizen of the United States of America.

The petition came on for final hearing in open court at the expiration of the ninety days prescribed by the statute, when the petitioner represented to the court that he was unable to produce one of the original verifying witnesses, Michael O'Dea, and asked permission to substitute a new witness named Frank Curran, who was believed to have the requisite qualifications. The representative of the Government objected on the ground that the name of the proposed new witness has not been duly posted.

LACOMBE, C. J.:

The point is well taken. The naturalization act of June 29, 1906, provides in its fifth section as follows:

"That the clerk of the court shall, immediately after filing the petition, give notice thereof by posting in a public and conspicuous place in his office, or in the building in which his office is situated, under an appropriate heading, the name, nativity, and residence of the alien, the date and place of his arrival in the United States, and the date, as nearly as may be, for the final hearing of his petition, and the names of the witnesses whom the applicant expects to summon in his behalf; and the clerk shall, if the applicant requests it, issue a subpœna for the witnesses so named by the said applicant to appear upon the day set for the final hearing, but in case such witnesses can not be produced upon the final hearing other witnesses may be summoned."

The concluding clause of this section, which authorizes the summoning of other witnesses than those who originally verified the petition, must be read in connection with the whole section and as requiring that the new witness shall have the same qualifications as those described in the first part of the section, including his having stood the test of having his name publicly posted for ninety days. Otherwise one of the safeguards which Congress provided against the naturalization of improper persons would be cast aside. The very object of posting the names of the witnesses is to give the Government opportunity for a full investigation conducted by its own officers, without having to depend solely on the cross-examination of persons of whom it never heard until the cause comes up for final disposition. It is unfortunate that the petitioner has been unable to procure the attendance of his original witness, but it is no great hardship for him to wait until the name of the new witness shall have been posted the requisite length of time. It would seem that persons seeking to be naturalized might avoid such delay by filing with their petitions the names and addresses of alias witnesses whom they propose to call in the event of original witness failing to attend.

The proceeding is adjourned accordingly.

HUGH GOVERN, Jr.,
Assistant U. S. Attorney, Representing the Government.

FEBRUARY 25, 1908.

U. S. S. PANTHER,
At sea, en route to Callao, Peru, February 14, 1908.

SIR: 1. On October 25, 1907, I applied at your office for naturalization and left my first papers, taken out May 25, 1899. I was then informed that I should present myself on January 24, 1908, for my final papers. This it was impossible for me to do, as I left New York in the U. S. S. *Panther* for the Pacific coast on December 10, 1907.

2. As I am desirous of securing my final papers at as early a date as practicable, I respectfully request that if not inconsistent with the regulations of your office that my final papers be forwarded to me, or that I be informed as to what action I shall take to obtain them.

3. The two men who identified me, R. L. Koehler and D. Foss, are now serving on board this ship.

4. In reference to the act of July 26, 1894, relative to the naturalization of aliens, I have to inform you that I have served in the United States Navy eight and five-twelfths years and hold two honorable discharges therefrom.

Very respectfully,
MARIUS NILSEN,
Chief Quartermaster, U. S. Navy.

Address U. S. S. *Panther*, care of postmaster, San Francisco.

The CLERK OF THE UNITED STATES DISTRICT COURT,
Post-Office Building, Brooklyn, N. Y.

[First indorsement.]

U. S. S. PANTHER,
At sea, en route to Callao, February 14, 1908.

Approved and respectfully forwarded to the clerk of the United States district court, Post-Office Building, Brooklyn, N. Y., recommending that Nilsen's papers be forwarded as soon as practicable.

The record of this man shows that his statements as to his previous naval service are correct.

V. S. NELSON,
Commander, U. S. Navy, Commanding.

[Second indorsement.]

UNITED STATES DISTRICT COURT,
Brooklyn, N. Y., March 16, 1908.

Section 5 of the naturalization act provides that "after filing the petition the clerk of the court shall immediately give notice, by posting in a public place the name, nativity, and residence of the alien, the date and place of his arrival in the United States, and date of final hearing of his petition."

Secton 6 provides that "in no case shall final action be had upon a petition until at least ninety days have elapsed after filing and posting the notice."

Nilsen left the jurisdiction of this court before the ninety days had expired, and no final hearing has been had on his petition. Until a hearing and final order by the judge is entered, I can not issue a certificate to him.

It has been held under a recent decision of Judge Lacombe, United States circuit court for the southern district of New York, that if the two original witnesses are not present on the final hearing before the court, and new witnesses are then offered, the names of the new witnesses must be posted for ninety days before a hearing can be held before the court. This is a great hardship on men serving in our Navy, as there is no certainty of the applicant or his witnesses being in the locality of a court for ninety days, and if one of the witnesses was ordered to sea and another witness offered, his name would have to be posted for another period of ninety days.

For the information of the service I call attention to the fact that Representative George E. Waldo has recently introduced in the House of Representatives a bill amending the naturalization act, for the relief of aliens serving in the Navy and Army of the United States who desire to be admitted to citizenship.

I understand the provision of the amendment is that men who have served five years continuously in the United States Navy may be admitted to citizenship without having the names of their witnesses posted for ninety days, as required by section 6 of the act.

In a personal interview with Mr. Waldo he informed me that he would do all in his power to obtain at this session of Congress a favorable consideration of the bill.

RICHARD P. MORLE, *Clerk.*

The following letter was filed by Mr. Bennet:

DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF IMMIGRATION AND NATURALIZATION,
Washington, March 24, 1908.

Mr. C. S. ATKINSON,
Clerk Committee on Immigration and Naturalization,
House of Representatives, Washington, D. C.

SIR: I beg to acknowledge receipt of your letter of the 23d instant inclosing copies of H. R. 17989 and H. R. 18983, and requesting an expression of my views thereon.

I may say that I am heartily in favor of the objects intended to be accomplished by both of these acts. The new legislation in the first-mentioned bill is contained in the proviso, the purpose of which is to exempt aliens serving in the United States Army, Navy, or Marine Corps, or serving as seamen on board of merchant vessels of the United States, from so much of the provision of section 6 of the act of June 29, 1906, as requires petitions to be posted for ninety days before hearings. Perhaps this does not go quite far enough, though it is in the direction of appropriate amendment of the existing law upon the subject of these favored classes of aliens. Thus there is a requirement in the general act that petitioners must be residents of the State in which they make application for at least one year prior to the date of filing petitions. This, of course, would be impracticable and would virtually amount to a denial of citizenship to those aliens who are in active service.

There might furthermore be enacted with entire propriety a provision that would in the case of those who have been honorably discharged make the paper showing such honorable discharge and service evidence in lieu of the affidavit of United States citizens to character, residence within the United States, etc. In other words, it seems to me that the proposed measure of Mr. Waldo only covers one feature of a very important proposition. As I stated before the subcommittee, I had an interview with the Secretary of the Navy upon this subject, who proposed to consult with the Secretary of War, so that jointly the two Departments might prepare suitable legislation that would remove all doubt as to the steps to be taken by aliens enlisted in the Army, Navy, Marine Corps, or serving in the merchant service of the United States, in order to become citizens, and would at the same time give them such exemptions as it is evidently the purpose of the Revised Statutes to grant.

Referring to the other measure, H. R. 18983, I may state that it seems to me a very just and proper measure to reimburse those clerks who have paid for clerical assistance out of their own pockets in order to accommodate those who desired to become naturalized. I do not understand that you want my opinion except upon the general proposition, but referring to the sentence beginning on page 2, line 12, may not some question arise because of the language on line 14, "appropriated from any naturalization fees collected by such clerk, etc." These fees now, as soon as collected, become a part of the miscellaneous fund of the Treasury, I believe.

Very respectfully,

RICHD. K. CAMPBELL,
Chief Division of Naturalization.

NATURALIZATION.

THE COMMITTEE ON IMMIGRATION AND NATURALIZATION,
Saturday, May 2, 1908.

The committee this day met, Hon. Benjamin F. Howell in the chair.

Present: Representatives Hayes, Moore of Texas, Burnett, Sabath, French, Bennet, Wood, and O'Connell.

STATEMENT OF HON. ADOLPH J. SABATH, A MEMBER OF CONGRESS FROM THE STATE OF ILLINOIS.

Mr. SABATH. I have some gentlemen here from Chicago who are desirous to see your friend, the President, and I must ask to be excused.

Mr. HAYES. You do not want to fight this bill in the committee; you can fight it on the floor of the House?

Mr. SABATH. This is the place to fight it. I will not consume more than ten minutes, at most fifteen minutes.

Mr. HAYES. Did you not say about all you wanted to say the other day?

Mr. SABATH. No, sir; I want to express my views and my opinions and also give such reasons as will convince you all—that you will agree with me and not report this bill.

I think it is an unfair, unjust, and unreasonable bill and calls for unjust, unfair, and unreasonable fees. We should not legislate for the purpose of trying to enrich the clerks of the respective courts, nor do we want to place ourselves in the position to say to the world that our Government desires to make profit out of naturalization.

Mr. HAYES. What do you say about this: That the clerks of the courts will not do the work for the fees?

Mr. SABATH. Where?

Mr. HAYES. They will not do it at any place.

Mr. SABATH. They do it in Chicago.

Mr. HAYES. The State courts?

Mr. SABATH. Yes, sir; the State courts.

Mr. HAYES. It is about the only place they are doing it. They will not do it in New York or Boston or any of the great cities.

The CHAIRMAN. The clerks of the courts in my district absolutely refuse to do it.

Mr. SABATH. Very likely the men who are making application are Democrats and the clerks are Republicans.

Mr. HAYES. Perhaps you are not familiar with the great amount of work required?

Mr. SABATH. I was under the impression that we in Chicago had about as keen a lot of gentlemen looking after the money as anybody.

Mr. HAYES. We do not care anything about the clerks; that is not the point. We must look out for the men who are applying for citizenship and who are sometimes compelled to wait three or four days before they can get a hearing on account of the crowded condition of the United States courts, since the State courts will not take jurisdiction.

Mr. SABATH. Do not the courts instruct the clerks to do this work?

Mr. HAYES. No, sir; because the clerks can not get their money.

Mr. SABATH. There is a provision for $5.

Mr. HAYES. Only half of it goes to the clerk; the other half goes to the Bureau of Naturalization. They only get 50 cents for the first declaration and $1 for the petition and order.

Mr. SABATH. Is not that sufficient for making out the petition?

Mr. HAYES. No, sir. There is no use of discussing it, because the clerks will not do the work. What is the use of arguing it? They would be glad to do it if they could afford to. The State courts will not do the work, and it forces these people to go a long way to get naturalization or else do without it.

Mr. SABATH. I am not here for the purpose of interfering with the people obtaining naturalization; I am here for the purpose of trying to make it easier for them. In our city the clerk gets 50 cents, I think, and that is all he gets.

Mr. HAYES. But you must remember that the proceedings are now very much longer.

Mr. SABATH. And the charge is $5 now.

Mr. HAYES. But that is spread over a period of five years. If the thing had not been tried, if it had not been in operation for awhile, your contention might have some force, but it has been tried and we know the consequences. We know that the clerks will not do the work and we can not force them by a law of Congress, because we have no jurisdiction. On account of the congestion in the United States courts are you going to make it impossible for a man to get naturalized, or are we going to let him pay enough so that there will not be so much loss of time? Instead of being more expensive, we are trying to make it less expensive.

Mr. SABATH. By increasing it 100 per cent?

Mr. HAYES. The way it is now he can not get naturalized at all, or if he gets the naturalization he has to go three or four times.

Mr. SABATH. Why do you not elect decent and respectable clerks down your way?

Mr. HAYES. We have not anything to do with that.

Mr. SABATH. Our clerks in Chicago will not refuse to do any work they are supposed to do even if the fees may not be large. These clerks are getting a salary all the way from $2,000 to $7,000 a year. They all have assistants. These clerks are paid by the respective counties and by the States themselves.

Mr. HAYES. You are entirely mistaken. In my State the clerk is paid $8,000 a year and he has to employ his own deputies, all of them, and when you put this additional work upon him he can not afford to do it, because he has only $2,500 or $3,000 left after paying his expenses.

Mr. SABATH. You allow $8,000 for the whole office?

Mr. HAYES. Yes, sir. He would have to employ additional clerks and take the money right out of his salary. No judge is going to force his clerk to do that. The result is that they are not taking jurisdiction in these cases.

The CHAIRMAN. Two of the counties in my district will not have anything to do with the work. They would be glad to do it if they could make any money.

Mr. HAYES. They are as keen after the money as anybody.

Mr. BURNETT. The applicant does not have to pay it all at one time.

Mr. HAYES. No; it is scattered over five years.

Mr. SABATH. It may be only two years.

Mr. BENNET. Yes; it may be two years.

Mr. SABATH. If he has been here three years he can declare his intention and wait two years.

Mr. HAYES. But it is scattered over quite a period of time. He pays $2 under the proposal in this bill when he declares his intention, and $1 of that goes to the clerk and $1 to the Government.

Mr. SABATH. I am obliged to leave at this time. I am not going for the purpose of killing time, but there are several gentlemen here from Chicago.

Mr. BENNET. I thought we set Saturday to suit your convenience?

Mr. SABATH. There are some friends of mine here who want to see the President, and some others who want to see the Assistant Secretary of War, and I am obliged to leave.

I am opposed to this bill, notwithstanding what Mr. Hayes says. I can not see it that way. I do not know why the clerks should object to issuing the certificate. We have no trouble and we do it in Chicago. How long does it take to make out such an application? Not more than ten minutes, and they get $1.

Mr. HAYES. There is lots of work connected with it.

Mr. BENNET. The chief of the division says that the files of his office are filled with complaints on account of the delay in the work.

Mr. SABATH. That does not apply to Chicago, I know.

Mr. BENNET. The business there is increasing every month.

Mr. SABATH. It does not apply to Chicago. We are issuing the certificates.

Mr. BENNET. A former attorney-general of our State of New York was down here yesterday on some law business and he told me that he had been trying to get his brother-in-law, who had been a British subject, naturalized for the last four months.

Mr. SABATH. That applies also to Chicago. Our clerks happen to be Republicans and the moment they find out the man who is making the application is a Democrat they refuse to issue the certificate.

Mr. BURNETT. Does that happen in the State courts?

Mr. SABATH. I mean the State courts, the county courts.

Mr. BENNET. That does not apply in New York.

Mr. SABATH. It does apply in Chicago. We started an investigation and they were forced to issue the papers. It is up to the courts to approve or disapprove. They will say: "You can not be made a citizen anyway," and they drive them away.

Mr. BENNET. I am a Republican and we are trying very hard to get your Democrats naturalized in New York.

Mr. SABATH. I am only stating the real facts. I am not against the clerks making all the money they can, but the tendency of late

has been to increase salaries and fees from day to day, from week to week, from month to month, and from year to year. Formerly the fees of the clerks were just about one-half as large as they are now, and they were able to get along. I admit that everything is higher under the present Administration. I recognize the fact that you will not do anything about the tariff and you permit the trusts to charge the people double prices for everything. I know the people need more money, but the right kind of people do not get that money; it is always the officeholder.

Mr. HAYES. The officeholder is the poorest paid man in the country. Everybody else has been increased, but he has not.

Mr. SABATH. If you will look over the bills which are passed here and all through every State you will see that the salaries have been increased. The sundry civil appropriation bill, which is now before us, carries $105,000,000, where twenty years ago, eighteen or sixteen years ago, it amounted to only $22,000,000 or $24,000,000.

Mr. HAYES. Very little of that is for salaries.

Mr. SABATH. It is five times as much as it was then.

Mr. HAYES. The salaries paid have not been increased since I have been here.

Mr. BENNET. How did you vote the other day on the $300,000 amendment?

Mr. SABATH. I voted against it, because I have not seen anybody resign because he was not getting enough money.

Mr. BENNET. I do not mean the customs bill; I mean the $300,000 to enforce the provisions of law in regard to railroad rebates.

Mr. SABATH. I voted for it. That was for the purpose of giving the Department a larger sum of money to investigate the thieving railroad companies. I am willing to spend millions of dollars to bring these railroad companies to terms. They have been holding up the public long enough.

You have no quorum and I have these gentlemen here, two of them happen to be representatives of the Polish National Organization, and they are here for the purpose to force or try to get the Bates resolution through the House—the resolution of sympathy—Colonel Smolinski and another gentleman. They have come all the way from Chicago. The other gentleman is here on another matter. Inasmuch as they represent about 3,000,000 of their people in this country I can not very well refuse them. They want to see the President. Nothing would surprise me that this committee would do. The only thing that would surprise me would be if you should report out my bill, No. 147, which I expect to take up at the meeting next Tuesday. We have already reported out more bills than any other committee.

Mr. HAYES. We did not report any that we did not think was right.

Mr. SABATH. I myself have not agreed with all the bills.

Thereupon the committee proceeded to the consideration of executive business, after which it adjourned.

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